

REMARKS

Claims 1-7 and 9-20 are pending in the present application. Claims 11 and 17 have been amended. Claim 21 has been canceled.

Claim Rejections-35 U.S.C. 103

Claims 11-14 and 16-20 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the Arase reference (Japanese Patent Publication No. 4-69939) in view of the Lung reference (U.S. Patent No. 6,838,692). This rejection is respectfully traversed for the following reasons.

The semiconductor device of claim 11 includes in combination a first insulating film "formed on the silicon substrate, the first insulating film including a first opening of the upper surface of the impurity region"; a polysilicon plug "of a second conductivity type formed in the first opening in contact with the impurity region and on an upper surface of the first insulating film"; and a second insulating film "formed on an upper surface of the polysilicon plug and on the upper surface of the first insulating film, the second insulating film having a second opening over the polysilicon plug...". Applicant respectfully submits that the prior art as relied upon by the Examiner does not make obvious these features.

The Examiner has relied upon Fig. 1 of the Arase reference in a similar manner as in the previous Office Action dated May 19, 2005. However, Fig. 1 of the Arase reference as relied upon does not include a second insulating film formed on an upper

surface of a polysilicon plug, a second opening in a second insulating film, and a conductive wiring layer as formed in a second opening of a second insulating film, as would be necessary to meet the features of claim 11.

In an effort to overcome the deficiencies of the Arase reference, the Examiner has relied upon Fig. 5c of the Lung reference. The Examiner has alleged that Fig. 5c of the Lung reference discloses "top-most second insulating film 140 formed on first insulating film 160c and on polysilicon plugs 720 and 740".

However, contrary to the Examiner's assertion, insulating layer 140 in Fig. 5c of the Lung reference is not illustrated, disclosed or even remotely suggested as formed on an upper surface of conductive plugs 720 and 740. The Lung reference as relied upon does not disclose the features as asserted by the Examiner. Consequently, even if proper motivation existed for modifying the Arase reference in view of the Lung reference (which motivation Applicant does not admit exists), the combined teachings would fail to disclose, suggest or make obvious the features of claim 11. Accordingly, Applicant respectfully submits that the semiconductor device of claim 11 would not have been obvious in view of the prior art as relied upon by the Examiner taken singularly or together, and that this rejection, insofar as it may pertain to claims 11-14 and 16, is improper for at least these reasons.

Allowable Subject Matter

Applicant notes the Examiner's acknowledgment that claims 1-7, 9 and 10 are

allowed.

Applicant also respectfully notes the Examiner's acknowledgement that claim 21 has been objected to as being dependent upon rejected base claim, but would be allowable if rewritten in independent form.

Accordingly, responsive to the acknowledgment of allowable subject matter, claim 17 has been amended to include the features of dependent claim 21, merely to advance prosecution of this application. The Examiner is respectfully requested to acknowledge that claims 17-20 are allowed.

Conclusion

Since claim 17 has been amended merely to include the features of dependent claim 21, and thus has the same scope as previous claim 21, the amendment to claim 17 should not be construed as narrowing scope within the meaning of *Festo*.

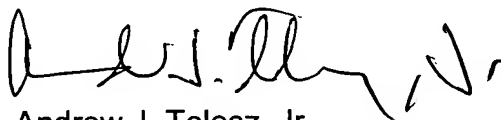
The Examiner is respectfully requested to reconsider and withdraw the corresponding rejection, and to pass the claims of the present application to issue, for at least the above reasons.

In the event that there are any outstanding matters remaining in the present application, please contact Andrew J. Telesz, Jr. (Reg. No. 33,581) at (571) 283-0720 in the Washington, D.C. area, to discuss these matters.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment for any additional fees that may be required, or credit any overpayment, to Deposit Account No. 50-0238.

Respectfully submitted,

VOLENTINE FRANCOS & WHITT, P.L.L.C.

A handwritten signature in black ink, appearing to read "Andrew J. Telesz, Jr.", with a stylized flourish at the end.

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